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48

National Academy of Public Administration
Study of Intelligence Community Personnel Systems

OVERVIEW: REMOVAL AUTHORITIES, STAFF REDUCTIONS AND OUTPLACEMENT

Removal Authorities

An examination of the IC agencies personnel management practices reveals that adequate authorities are in place to deal effectively with contingencies which might require reductions in staff or separation of an individual employee. Each agency or department head has specific or implied authority in law, or has been delegated such authority, to remove employees for cause, for unacceptable performance, for suitability reasons, or in the interest of national security.

The Directors of the CIA and FBI have the broadest authority within the IC and can "select out" or summarily dismiss any employee of their respective agencies as they deem appropriate. The Secretary of State also has "selection out" authority with respect to members of the Foreign Service, although implementation of this authority is through a formalized system of "up or out."

The removal authorities as presently constituted for the heads of the IC agencies are adequate to accomplish the desired ends, and, notwithstanding the broader authorities of the DCI, Dir FBI or Sec of State, need not be expanded or enhanced.

Removals within the IC are uncommon, averaging about eight or nine per year for all agencies combined. Many more employees (about 280) face removal each year, but choose to voluntarily separate in lieu of removal. Many of these cases are proposed removals within the trial employment period.

Most IC agencies conduct an assessment of risk when an employee is being separated for cause or when there is reason to believe that some danger may exist that an individual could be susceptible or vulnerable to espionage, defection or unlawful disclosure of classified information. A determination is made in the best interests of national security as to whether the individual should be terminated or retained for some period of time but without access to sensitive security information. Under current procedures, the risk assessment is done internally by each

agency. It is recommended that a sharing of the information on such cases with the other agencies of the IC, perhaps in coordination with the IC staff, would be beneficial. The other agencies would thereby have an opportunity to do its own risk assessment, as may be applicable.

All IC agencies have established adequate adverse action procedures which are comparable to those prescribed in 5 USC and other provisions of law. Only the Military Services, and State Dept. civil service employees are specifically subject to OPM procedures. Except for CIA and Foreign Service personnel, any preference eligible excepted service and all permanent civil service employees may file an appeal of an adverse action with the MSPB, unless the action for removal is taken in the interest of national security. CIA and Foreign Service personnel have no administrative appeal rights outside of their own agency or department.

Staff Reductions

All IC agencies follow a similar approach when required to implement an internal staff reduction. Hiring would be curtailed or stopped and vacancies would not be filled. Functions might be consolidated to reduce manpower requirements and authority would be requested from OPM to offer early optional retirement where appropriate. As a last resort, the agencies would initiate a reduction in force (RIF).

A possible approach the IC agencies might consider if faced with future forced manpower reductions is to try to place surplus employees with another of the IC agencies that has a need for such skills. This kind of exchange, if workable, could possibly eliminate the need to RIF and would retain skills within the community that would otherwise be lost.

With the exception of CIA and the Foreign Service, all IC agencies are subject to RIF procedures as specified by OPM, and each has established its own procedures or follows the procedures set forth in FPM Chapter 351. CIA would invoke a number of regulatory provisions to deal with any surplus by occupational category (professional, technical or clerical).

Although all IC agencies have been faced with mandated staff reductions over the years, actual RIF's have been a rarity. Two staff reductions at CIA in the 1970's, one at DIA in the early 1970's, and one at the State Dept. in 1954 are the only RIF's of any consequence on record. Most other overage situations have been satisfied by other means, notably reduced or curtailed hiring, normal attrition, and early optional retirement. Tampering with the hiring program, however, usually results in unfortunate consequences down the road, such as adversely impacting work force demographics.

The option which has the least long-term impact on an agency is that of involuntary retirement. Although this tool has been used effectively in the past by some IC agencies, approval must be obtained each time from OPM except for CIA. To provide greater flexibility to deal effectively and expeditiously with overage situations, the staff recommends authorizing heads of IC agencies to approve early optional retirement when it is considered necessary to reduce strength or when significant overages occur in specific occupational skills. Most IC agencies generally favor the early optional retirement over any kind of forced or involuntary retirement.

Outplacement

With the exception of CIA and State Dept., outplacement programs for employees separated from service or leaving through voluntary or involuntary retirement are virtually non-existent within the IC. The programs at CIA and State provide a variety of excellent services in helping the employee to prepare for and make the transition to another career. CIA's program is open to all employees who are being separated and to retiring personnel as well. State's program, which is broader in scope and longer in time, is open to all separated employees (except those separated for cause), to those involuntarily separated, and to those who are separating voluntarily.

Outplacement services are being used by a growing number of companies in the private sector. It is estimated that approximately 50 percent of firms with 1,000 or more employees use outplacement services -- and the number is increasing at a rapid rate each year. Outplacement is no longer thought of as simply an easy way of getting rid of misfits, but instead is being recognized more and more for the diverse and effective services that are available. In addition to outplacement, counseling, cross-training, and career development assistance are all services provided by outplacement organizations which can be made available to employees who are not leaving a firm. Oftentimes, proper counseling can result in a behavior change which may obviate the need to fire an employee.

Whether it be dealing with employees leaving a firm or being retained, outplacement is viewed by employers as a means to solve a variety of human resources problems -- and everybody gains. The employer not only solves his immediate problem, but benefits in other ways too. He builds good relations with his employees; his reputation within the community as a good employer is enhanced; he is able to gently but effectively remove a problem employee from

his work area; he eases the likelihood of a law suit; and he demonstrates compassion towards a separated employee. The departing employee, of course, also gains, as he is afforded professional counseling and training in how and where to find future employment. Placement success is very high, although the time it takes to find a suitable job varies from individual to individual. Placement companies work with individuals at all levels -- from executives to clerks. They even handle mass layoffs, such as a plant closing.

With respect to the IC agencies, an effective outplacement program would provide a valuable tool to encourage and assist an otherwise unproductive or unsuitable employee to seek out other employment opportunities. Such a positive approach could well facilitate the employee's transition out of the agency without the necessity of initiating removal action, and at the same time would leave the outgoing employee with positive feelings towards his former employer. By the same token, good outplacement programs when offered to retiring personnel provide a valuable service to a valued employee who has served his agency well for a full career. Many IC employees lead very cloistered professional careers with limited outside contacts or involvements. Hence, at retirement, many who want to transition to another career are at a loss as to how to go about doing so. The counseling and assistance provided through a good outplacement program fills this need. It is recommended that all IC agencies without effective outplacement programs consider establishing them, and that they look to the CIA and State programs, as well as the private sector, as models for the design of their own program.

RECAP of Recommendations

- 1) On separation for cause cases, agencies should share risk assessment information within the Community.
- 2) IC agencies should share information on staff reduction to determine if individuals have skills needed by another organization in the Community.
- 3) Legislative authority be granted to heads of intelligence agencies to approve early optional retirement when it is considered necessary to reduce strength or when significant excesses occur in specific occupational skills.
- 4) IC agencies should all have formal outplacement programs and they should look to CIA, State and the private sector for models of what needs to be done.

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